

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 2:08-CR-56

v.

HON. ROBERT HOLMES BELL

KEVIN JERMAINE RODGERS,

Defendant.

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**MEMORANDUM OPINION AND ORDER**

Defendant Kevin Jermaine Rodgers has filed motions for modification or reduction of sentence (ECF Nos. 271, 274, 297, 320, and 325) pursuant to 18 U.S.C. §3582(c)(2) on the basis of Amendments 750 and 782 of the United States Sentencing Guidelines, made retroactive by the Sentencing Commission.

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in U.S.S.G. §§ 2D1.1 and 2D1.11. These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10. Amendment 750 of the United States Sentencing Guidelines modified U.S.S.G. § 2D1.1, the Drug Quantity Table with regard to cocaine base (crack cocaine), and U.S.S.G. § 2D2.1(b). These modifications were made retroactive effective November 1, 2011. U.S.S.G. § 1B1.10(c).

However, because the mandatory minimum sentence of imprisonment, which is the controlling guideline, was imposed at sentencing, the Probation Office has now found Defendant ineligible for a reduction in sentence under Guideline Amendment 750 and 782. Defense counsel has filed responses to the Sentence Modification Report, (ECF Nos. 340 and 341) and wishes to preserve the issue for future consideration should the law change. The government has indicated it would not be filing a response to the Sentence Modification Report.

Therefore, IT IS HEREBY ORDERED that Defendant's motions for modification of sentence (ECF Nos. 271, 274, 297, 320, and 325) pursuant to 18 U.S.C. § 3582(c)(2) are **DENIED**.

IT IS FURTHER ORDERED that counsel having been previously appointed, Defendant's motion to appoint counsel (ECF No. 337) is **DENIED AS MOOT**.

IT IS FURTHER ORDERED that counsel having been previously appointed to respond to the Sentence Modification Report, Defendant's pro se objections to the Sentence Modification Report (ECF No. 338 and 339) are **DISMISSED AS MOOT**.

Dated: May 11, 2015

/s/ Robert Holmes Bell  
ROBERT HOLMES BELL  
UNITED STATES DISTRICT JUDGE